



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

5

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,516	02/08/2002	Gilbert Wong	87154239-560002	3455
26453	7590	09/14/2004	EXAMINER	
BAKER & MCKENZIE 805 THIRD AVENUE NEW YORK, NY 10022				PATEL, VINOD D
		ART UNIT		PAPER NUMBER
		3742		

DATE MAILED: 09/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/071,516	WONG ET AL.
	Examiner	Art Unit
	Vinod D. Patel	3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 18 August 2004.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 15-20 and 28 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 15-20 and 28 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 08 February 2002 is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .
5) Notice of Informal Patent Application (PTO-152)
6) Other: _____

DETAILED OFFICE ACTION

INTRODUCTION

1. This application/control number (RCE)10/071516 has been examined. This is final action on the merits of the claimed invention. The application has claims 15-20 and 28.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 15-16, 18-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Kaizuka (US5941253).

Kaizuka discloses a hair curling roller (A) having a hollow cylindrical shell (2), characterized in that the body of the cylindrical shell (2) and a glove (4) composed of a blended material (column 1, line38-41) of thermo-resistant material and ion-powders, the ion-powders (column 2, table1) are composed of a blended mixture of powders including anhydrous silicon (SiO₂), aluminum oxide (Al₂O₃), iron oxide (Fe₂O₃), calcium oxide (CaO), magnesium oxide (MgO), potassium oxide(K₂O), sodium oxide (Na₂O) and manganese oxide (MnO), the hair curling roller comprising a heating element (7) within cylindrical shell (2).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 17, 20 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaizuka (US5941253) as applied to claims 15-16, 18-19 above.

With respect to claim 17, Kaizuka discloses the claimed invention except for the size of the particles of the ion-powders being less than 10 μm in diameter. Kaizuka is silent regarding particular size of the particle, but discloses a firm curl in a short period of time thus preventing damage to hair thanks to the negative ions generated from the surface of the cylindrical shell (2) and a glove (4). The size of the particles of the ion-powders being less than 10 μm in diameter does not impose any structural limitations upon the claimed apparatus which differentiates it from prior art apparatus satisfying the structural limitations of that claimed.

With regards to claims 20 and 28, Kaizuka discloses a hair curling roller comprising claimed limitations except a plurality of projections on an outer surface of the cylindrical shell.

It would have been obvious matter of design choice to modify the Kaizuka by having a plurality of projections on an outer surface of the cylindrical shell, since applicant has not disclosed that having a plurality of projections on an outer surface of the cylindrical shell solves any stated problem or is for any particular purpose and it appears that the Kaizuka's curling roller would perform equally well with the plurality of projections on an outer surface of the cylindrical shell

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vinod D. Patel whose telephone number is 703-308-5227. The examiner can normally be reached on 7.30 A.M. TO 4.00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 703-305-5766. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

VP

Vinod Patel
Vinod Patel
Patent Examiner
Art Unit 3742

Cheryl J. Tyler
CHERYL J. TYLER
PRIMARY EXAMINER